

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

DIANE COWAN *et al.*,)
Plaintiffs,)
and)
UNITED STATES OF AMERICA,)
Plaintiff-Intervenor,) Civil Action No. 2:65-CV-00031-DMB
v.)
BOLIVAR COUNTY BOARD OF)
EDUCATION *et al.*,)
Defendants.)

)

JOINT MOTION FOR MODIFICATION OF THE COURT'S ORDER

For the reasons discussed below, Plaintiffs, Plaintiff-Intervenor United States, and Defendant Cleveland School District (the “District”) respectfully request that the Court modify its September 22, 2016, Order setting forth a timeline for implementation of the United States’ desegregation plan. Doc. No. 233 (“Timeline Order”). Additionally, the parties withdraw every alternative desegregation plan put forth and request that the Court terminate the deadlines outlined in the Court’s January 19, 2017, scheduling order as moot. Doc. No. 274.

Recent Procedural History

On May 13, 2016, the Court entered an Opinion and Order adopting the desegregation plan proposed by the United States of America (the “Plan”), which calls for the consolidation of the District’s high schools and middle schools. Doc. No. 215 at 96. Under the Plan, the District would consolidate its ninth through twelfth grade students into a single comprehensive high

school housed in the current facilities at Cleveland High School and Margaret Green Junior High School. *Id.* at 78, 96. The Plan also calls for the assignment of all sixth through eighth grade students (except for the sixth grade students at Bell Academy and Hayes Cooper Center) to a consolidated middle school housed in the current East Side High School facility. *Id.* Soon thereafter, on September 22, 2016, the Court issued the Timeline Order requiring the District to take steps to assure that Cleveland schools would be consolidated for the 2017-18 school year.

On July 11, 2016, the District appealed the Court's May 13, 2016, desegregation order to the Fifth Circuit Court of Appeals. Doc. No. 219. On January 17, 2017, the Fifth Circuit granted the District a stay of this Court's May 13, 2016, Order pending appeal, and scheduled oral argument for April 2017. Doc. No. 272.

While the appeal has been pending, the parties have engaged in ongoing formal discovery and briefing in this Court regarding multiple alternative desegregation plans proffered by the District since August 2016. *See, e.g.*, Doc. Nos. 239 (discussion and scheduling order), 244 (scheduling order), 253 (scheduling order), 274 (scheduling order). In its most recent order, this Court indicated that it would rule on the District's proposed "Unified High School Plan" before May 31, 2017. *See* Doc. Nos. 252 (plan) and 274.

Proposed Agreement

As of January 30, 2017, the parties have reached a settlement agreement that will resolve this phase of the case. This settlement will preserve the Court's May 13, 2016, Order, save one change regarding sixth grade student assignment. Under this agreement, the District will consolidate its ninth through twelfth grade students into a single comprehensive high school housed in the current facilities at Cleveland High School and Margaret Green Junior High School. The District will assign all seventh and eighth grade students to a consolidated middle

school housed in the current East Side High School facility. Additionally, the District will expand grade offerings at Cypress Park, Pearman, and Parks elementary schools to include the sixth grade. This change will bring these elementary schools in line with Bell Academy and Hayes Cooper Center, which already include the sixth grade. As a result, all District students will begin middle school at the same time, in the seventh grade, and under one roof.¹ The District shall implement consolidation of grades seven through twelve, as well as changes to the sixth grade, in time for the beginning of the 2017-2018 school year.

Proposed Modification

Accordingly, the parties respectfully request that this Court modify its Timeline Order to remove references to the assignment of sixth grade students. *See* Timeline Order at 4 (item no. 5). The parties are committed to maintaining all other obligations and deadlines contained in the Timeline Order, which should therefore remain unchanged.

Pursuant to Local Uniform Civil Rule 7(b)(2)(F), the parties have contemporaneously submitted an agreed-upon proposed order via email to chambers.

Within two days of this Court modifying the Timeline Order, the parties shall file a joint dismissal agreement regarding all current proceedings before the Fifth Circuit.

Finally, the District hereby withdraws its “Unified High School Plan” submitted for the Court’s consideration on November 18, 2016. Doc. No. 252. Additionally, Plaintiffs hereby withdraw their desegregation proposal submitted for the Court’s consideration on January 11,

¹ Based on current fifth grade enrollment, the District projects that the 2017-2018 sixth grade enrollment (excluding students who will attend Bell Academy and Hayes Cooper Center) will be 177 students. *See* Doc. No. 252 at 2. Under this agreement, 78 of those students will remain at Cypress Park Elementary School, which has a 100% black student enrollment, for the sixth grade. As part of this agreement, the District will give preference to current Cypress Park fifth grade students who apply for current openings at Hayes Cooper Center and Bell Academy for the 2017-2018 school year.

2017. Doc. No. 264. Lastly, the parties respectfully request that the Court terminate deadlines in the January 19, 2017, scheduling order as moot. Doc. No. 274.

Respectfully submitted this 8th day of February, 2017,

For Plaintiffs:

/s/ Shakti Belway

Shakti Belway (MS # 102095)
P.O. Box 19974
New Orleans, LA 70179
Telephone: (504) 333-6877
shakti.belway@gmail.com

For Plaintiff-Intervenor United States of America:

FELICIA C. ADAMS
United States Attorney
Northern District of Mississippi
900 Jefferson Avenue
Oxford, MS 38655-3608
Telephone: (662) 234-3351
Facsimile: (662) 234-4818

T.E. WHEELER, II
Acting Assistant Attorney General
Civil Rights Division

SHAHEENA SIMONS, Chief
RENEE WOHLENHAUS, Deputy Chief
Educational Opportunities Section
Civil Rights Division

/s/ Aziz Ahmad

AZIZ AHMAD (DC # 1004817)
PETER W. BEAUCHAMP
CEALA BREEN-PORTNOY
Trial Attorneys
Educational Opportunities Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW, PHB 4300
Washington, D.C. 20530
Telephone: (202) 305-3355
Facsimile: (202) 514-8337
Aziz.Ahmad@usdoj.gov

For Defendant Cleveland School District:

Holmes S. Adams
MS Bar No. 1126
John S. Hooks
MS Bar No. 99175
Lindsey O. Watson
MS Bar No. 103329
ADAMS AND REESE LLP
1018 Highland Colony Parkway, Suite 800
Ridgeland, MS 39157
Telephone: 601-353-3234
Holmes.Adams@arlaw.com
John.Hooks@arlaw.com
Lindsey.Oswalt@arlaw.com

/s/ Jamie F. Jacks
Jamie F. Jacks
MS Bar No. 101881
Gerald H. Jacks
MS Bar No. 3232
Jacks Griffith Luciano, P.A.
Post Office Box 1209
Cleveland, Mississippi 38732
Telephone: 662-843-6171
jjacks@jacksadamsnorquist.com
gjacks@jacksadamsnorquist.com

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2017, I electronically filed a copy of the foregoing Joint Motion for Modification of the Court's Order using the Court's CM/ECF system. Notice of this filing was sent by operation of the CM/ECF system to all counsel of record.

/s/ Aziz Ahmad
AZIZ AHMAD (DC # 1004817))
Attorney for Plaintiff-Intervenor